

AMENDED IN SENATE APRIL 30, 2003

AMENDED IN SENATE APRIL 10, 2003

SENATE BILL

No. 23

Introduced by Senators Sher and Burton

December 2, 2002

An act to amend Sections 14528.1, 14549, 14549.1, 14549.5, 14549.6, 14552.5, 14552.51, 14560, 14561, 14573.51, 14575, 14575.1, 14581, and 14585 of, and to add Sections 14513.5 and 14575.5 to, the Public Resources Code, relating to beverage containers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 23, as amended, Sher. Beverage containers.

(1) The existing California Beverage Container Recycling and Litter Reduction Act requires a distributor of specified beverage containers to pay a redemption payment to the Department of Conservation, for each beverage container, as defined, sold or transferred, for deposit in the California Beverage Container Recycling Fund. Existing law sets the amount of the redemption payment as 2.5¢ for every beverage container, and 5¢ for beverage containers with a capacity of 24 or more fluid ounces. The money in the fund is continuously appropriated to the department to pay refund values, processing payments, and for other purposes.

A violation of the act is a crime.

This bill would increase the amount of the redemption payment to 5¢ for every beverage container sold or transferred and would increase the redemption payment for beverage containers with 24 or more ounces

to 10¢. Since these funds would be deposited in a continuously appropriated fund, the bill would make an appropriation. The bill would also make conforming changes regarding the labeling requirements for beverage containers subject to the act.

(2) The existing act authorizes the department to pay a quality glass incentive payment of up to \$25 per ton, not to exceed a total amount of \$3,000,000 annually. The department is authorized to make these payments to an operator of any curbside recycling program or any certified entity that color-sorts glass beverage containers for recycling or processes mixed-color cullet, and the act authorizes those incentive payments only for glass beverage containers that are either collected color-sorted by curbside recycling programs, or that are collected commingled by curbside recycling programs and subsequently color-sorted by the collector or any other certified entity or processed.

This bill would authorize the department to pay the quality glass incentive payment to any operator that processes mixed color cullet to enable glass beverage containers to be utilized in the production of glass containers or fiberglass. The bill would increase the amount of the payments to \$30 per ton for color-sorted cullet and would establish a payment of \$25 per ton for mixed-color cullet. The bill would also permit those incentive payments to be made for glass beverage containers that are collected commingled by curbside recycling programs and subsequently processed in order to enable the glass to be utilized in the production of glass containers or fiberglass.

(3) The act authorizes the department to annually pay curbside programs and neighborhood dropoff programs up to \$15,000,000, based on the volume of containers collected during the fiscal year.

This bill would revise the method of determining the volume of beverage containers collected, for purposes of these payments, to the volume collected during the calendar year.

(4) Under the act, whenever a glass container manufacturer rejects a load of redeemed glass, the glass container manufacturer is required to fill out a standardized rejection form. A certified processor seeking to dispose of those containers is prohibited from disposing of those rejected postfilled containers unless the certified processor first submits to the department, in writing, a request to dispose of the rejected material. Existing law requires glass container manufacturers and processors to take all possible steps to avert the disposal of the loads of postfilled containers, as determined by the department.



This bill would revise these provisions to instead require every container manufacturer to fill out a standardized rejection form and would include all beverage container materials within those disposal prohibitions. Because a violation of the act is a crime, the bill would impose a state-mandated local program by changing the definition of a crime.

The bill would require the department, until January 1, 2005, to calculate a specified curbside program commingled rate for bimetal containers and specified types of plastic containers. The bill would authorize the department to enter into a contract to calculate the commingled rate and would delete the requirement to calculate the commingled rate, if the department determines specified revenues are insufficient to pay for that contract.

(5) The existing act requires the department to calculate a processing fee and a processing payment for each beverage container with a specified scrap value. The scrap value is required to be based upon the actual costs for recycling a container type and the department is required to make this determination every 3rd year. The processing fee is required to be paid by beverage manufacturers for each beverage container sold or transferred to a dealer. The department is required to set the processing fee to equal 65% of the processing payment that the department pays to processors, but the department is required to reduce the amount of the processing fee, based upon the availability of funds in each materials processing fee account for that beverage material type, so that the amount of the processing fee equals 25% of the processing payment.

Existing law requires the department to deposit the processing fees and an amount of funds equal to 75% of the processing payments in separate processing fee accounts in the fund, and the money in each processing fee account is continuously appropriated to the department to pay processing payments. A processing fee is not imposed on a PET plastic beverage container if a willing purchaser offers to purchase empty plastic beverage containers at a voluntary artificial scrap value, as defined, that, when combined with specified payments, is equal to or less than the recycling cost.

This bill would require the department to calculate the processing payments for 2003, based on the January 1, 2002, recycling costs, and to determine the actual costs for certified recycling centers, on and after January 1, 2004, every second year, as annually adjusted for inflation.



The bill would delete the requirement that the department reduce the amount of the processing fee to equal 25% of the processing payment, and would instead require that the processing fee be reduced to a specified percentage of the processing payment, based on the recycling rate of that container type. The bill would also revise the amount of funds that the department is required to deposit in the separate processing fee accounts in accordance with the changes made by the bill, thereby making an appropriation. The bill would prescribe the recycling costs for non-PET plastic containers for the January 1, 2002, calculation of the processing fee.

The bill would authorize the department to adjust the amount of the processing payment not more than once every 3 months, if the department makes certain determinations.

This bill would revise the definition of voluntary artificial scrap value and would instead prohibit the imposition of a processing fee on PET plastic containers, or HDPE plastic containers, as defined, if a willing purchaser offers to purchase empty PET or HDPE containers at a voluntary artificial scrap value that is equal to the reduced processing fee when applied to all containers sold.

The bill would require the department to establish a supplemental processing payment that would be paid by the department to a processor, who would be required to pay that amount to a recycling center. The bill would authorize a recycling center to receive a supplemental processing payment if the recycling center receives processing payments and would require those supplemental processing payments to be based on the volume of redeemed containers subject to that supplemental processing fee that the recycling center reports for each whole month, commencing on or before 20 days after the effective date of this bill and continuing for a period of 12 consecutive months. The bill would specify the amount of the supplemental processing payments for glass, PET plastic containers, and HDPE plastic containers. The bill would require a recycling center to report to a processor the volume of redeemed containers subject to the supplemental processing payments. The bill would require the department to pay the supplemental processing payments on eligible redeemed containers to processors in the same manner as it pays refund values, except as specified.

(6) Existing law requires the department to pay a total of \$23,500,000 annually in handling fees to supermarket sites and certain recyclers to provide an incentive to redeem beverage containers, and



requires, as a condition of eligibility for these payments, that the site or recycler redeem not less than 60,000 beverage containers during the calendar month in which the handling fee is paid.

This bill would increase to \$26,500,000 the amount the department is required to expend to pay these handling fees from July 1, 2002, to June 30, 2003, and would continue the annual amount of \$23,500,000 on and after July 1, 2003, and annually thereafter. The bill would provide for an alternative handling fee eligibility requirement of redeeming an average of not less than 60,000 beverage containers per month during the previous 12 months.

(7) Existing law requires the department to annually expend \$300,000 until January 1, 2003, pursuant to a cooperative agreement with Keep California Beautiful, to conduct a statewide public education campaign. Under the existing program, \$500,000 may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

This bill would extend the date for the statewide public education campaign to January 1, 2004. The bill would increase to \$1,500,000, the sum authorized to be spent annually in the form of grants for beverage container recycling and litter reduction programs, thereby making an appropriation. The bill would authorize the department to spend up to \$10,000,000 annually, until January 1, 2007, to issue grants for recycling market development and expansion-related activities aimed at increasing the recycling of beverage containers, thereby making an appropriation.

~~(8) The bill would allow the transfer of up to \$80,000,000 from the California Beverage Container Recycling Fund to the General Fund for fiscal year 2003-04, upon the written approval of the Director of Finance. The bill would provide that the transfer is a loan to the General Fund and would require the loan to be fully repaid in a specified manner by June 30, 2010.~~

~~The bill would also allow the transfer of up to \$100,000,000 annually from the California Beverage Container Recycling Fund to the General Fund for fiscal year 2004-05 and fiscal year 2005-06 upon the written approval of the Director of Finance. The bill would prohibit the Director of Finance from transferring those funds unless the Director of Conservation determines that the amount of the transfer will not affect the ability of the Department of Conservation to make the expenditures specified in the act. The bill would provide that these transfers are a loan to the General Fund and would require the amount~~

~~transferred for fiscal year 2004–05 to be fully repaid by June 30, 2011, and the amount transferred for fiscal year 2005–06 to be fully repaid, in a specified manner.~~

~~The bill would also allow a loan made pursuant to these provisions to be transferred back to the California Beverage Container Recycling Fund in an amount necessary to provide operating funds for support of the act.~~

~~(9)–~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

~~(10)~~

(9) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14513.5 is added to the Public
- 2 Resources Code, to read:
- 3 14513.5. “HDPE” means a plastic beverage container
- 4 labeled with a “2” for high-density-polyethylene resin pursuant
- 5 to Section 18015 and subject to this division.
- 6 SEC. 2. Section 14528.1 of the Public Resources Code is
- 7 amended to read:
- 8 14528.1. “Voluntary artificial scrap value” means a price
- 9 paid by a willing purchaser of empty PET or HDPE containers,
- 10 that reflects the payment of the scrap value for all PET or HDPE
- 11 containers sold, and that, when combined with payments made
- 12 from the PET or HDPE processing fee account pursuant to clause
- 13 (ii) of subparagraph (A) of paragraph (6) of subdivision (a) of
- 14 Section 14581, is equal to, or more than, the recycling cost for
- 15 empty PET or HDPE containers, as determined in subdivision (d)
- 16 of Section 14575.
- 17 SEC. 3. Section 14549 of the Public Resources Code is
- 18 amended to read:
- 19 14549. (a) Every glass container manufacturer shall report to
- 20 the department each month, by a method as determined by the



1 department, the amount of total tons of new glass food, drink, and
2 beverage containers made in California by that glass container
3 manufacturer and the tons of California postfilled glass used in the
4 manufacturing of those new containers.

5 (b) Each glass container manufacturer in the state shall use a
6 minimum percentage of 35 percent of postfilled glass in the
7 manufacturing of their glass food, drink, or beverage containers
8 measured in the aggregate, on an annual basis, except that if a glass
9 container manufacturer demonstrates to the satisfaction of the
10 department that its use of postfilled glass during the annual period
11 is made up of at least 50 percent mixed-color cullet, then that
12 manufacturer shall use a minimum percentage of 25 percent
13 postfilled glass in the manufacturing of its glass food drink, or
14 beverage containers, measured in the aggregate, on an annual
15 basis.

16 (c) A glass container manufacturer may seek a reduction or
17 waiver of the minimum postfilled glass percentage required to be
18 used in the manufacture of glass food, drink, or beverage
19 containers pursuant to subdivision (b). The department may grant
20 a reduction or waiver of the percentage requirement if it finds and
21 determines that it is technologically infeasible for the glass
22 container manufacturer to achieve the percentage requirement or
23 if the department determines that a glass container manufacturer
24 cannot achieve the minimum percentage because of a lack of
25 available glass cullet.

26 (d) For the purposes of this section, “mixed-color cullet”
27 means cullet that does not meet the American Society for Testing
28 and Materials (ASTM) standard specifications for color mix of
29 color-sorted postfilled glass as raw material for the manufacture
30 of glass containers.

31 SEC. 4. Section 14549.1 of the Public Resources Code is
32 amended to read:

33 14549.1. In order to improve the quality and marketability of
34 glass containers collected for recycling in the state by curbside
35 recycling programs, the department may, consistent with Section
36 14581 and subject to the availability of funds, pay a quality glass
37 incentive payment to either an operator of a curbside recycling
38 program registered pursuant to Section 14551.5, or to any other
39 entity certified pursuant to this division, that color-sorts glass
40 beverage containers for recycling or that processes mixed-color

1 cullet to enable glass beverage containers to be utilized in the
2 production of glass containers or fiberglass. The total amount
3 expended by the department pursuant to this section may not
4 exceed three million dollars (\$3,000,000) per calendar year. The
5 department shall make a quality glass incentive payment based on
6 all of the following:

7 (a) The amount of the quality glass incentive payment shall be
8 up to thirty dollars (\$30) per ton for color-sorted cullet, and
9 twenty-five dollars (\$25) per ton for quality mixed-color glass
10 beverage containers, as determined by the department.

11 (b) The department shall make a quality glass incentive
12 payment only for color-sorted glass beverage containers that are
13 substantially free of contamination.

14 (c) The department shall make a quality glass incentive
15 payment only for glass beverage containers that meet, at a
16 minimum, one of the following conditions:

17 (1) Are collected color-sorted by curbside recycling programs.

18 (2) Are collected commingled by curbside recycling programs
19 and subsequently color-sorted by the collector or any other entity
20 certified pursuant to this division.

21 (3) Are collected commingled by curbside recycling programs
22 and subsequently processed by a beneficiating processor in order
23 to enable the glass to be utilized in the production of glass
24 containers or fiberglass.

25 (d) Only one payment shall be made for each color-sorted glass
26 beverage container collected.

27 SEC. 5. Section 14549.5 of the Public Resources Code is
28 amended to read:

29 14549.5. On or before the 90th day after the effective date of
30 the act amending this section, and annually thereafter, or more
31 frequently as determined to be necessary by the department, the
32 department shall review and, if necessary in order to ensure
33 payment of the most accurate commingled rate feasible,
34 recalculate commingled rates paid for beverage containers and
35 postfilled containers paid to curbside recycling programs,
36 collection programs, and recycling centers. Prior to recalculating
37 a commingled rate pursuant to this section, the department shall do
38 all of the following:

39 (a) Consult with private and public operators of curbside
40 recycling programs, collection programs, and recycling centers

1 concerning the size of the statewide sample, appropriate sampling
2 methodologies, and alternatives to exclusive reliance on a
3 statewide commingled rate.

4 (b) At least 60 days prior to the effective date of any new
5 commingled rate, hold a public hearing, after giving notice, to
6 make available to the public and affected parties the department's
7 review and any proposed recalculations of the commingled rate.

8 (c) At least 60 days prior to the effective date of any new
9 commingled rate, and upon the request of any party, make
10 available documentation or studies which were prepared as part of
11 the department's review of a commingled rate.

12 (d) (1) Notwithstanding this division, except as provided in
13 paragraph (4), the department shall calculate a curbside recycling
14 program commingled rate pursuant to this subdivision for bimetal
15 containers and a combined commingled rate for all plastic
16 beverage containers displaying the resin identification code "3,"
17 "4," "5," "6," or "7" pursuant to Section 18015.

18 (2) If the department determines that it is not able to collect an
19 adequate sample size when calculating a curbside commingled
20 rate, the department shall establish a commingled rate and an error
21 rate and publish for curbside programs a refund value per
22 commingled pound based upon the commingled rate minus the
23 calculated error rate.

24 (3) If the recycling rate, as calculated pursuant to paragraph (3)
25 of subdivision (f) of Section 14575, for any bimetal or plastic resin
26 type subject to the curbside commingled rate established by this
27 subdivision, exceeds 30 percent, the department shall recalculate
28 the curbside commingled rate. The department shall exclude from
29 a recalculated plastic resin curbside commingled rate any resin
30 type that exceeds 30 percent and calculate a separate curbside
31 commingled rate for that resin type.

32 (4) On and after January 1, 2005, the department may not
33 calculate, pursuant to this subdivision, a curbside recycling
34 program commingled rate for bimetal containers and a combined
35 commingled rate for all plastic beverage containers displaying the
36 resin identification code "3," "4," "5," "6," or "7" pursuant to
37 Section 18015.

38 (5) The department may enter into a contract for the services
39 required to implement the amendments to this section made by the
40 act of the first half of the 2003–04 Regular Session of the

1 Legislature amending this section. The department may not
2 expend more than two hundred fifty thousand dollars (\$250,000)
3 for each year of the contract. The contract shall be paid only from
4 revenues derived from redemption payments and processing fees
5 paid on plastic beverage containers displaying the resin
6 identification code ~~“3”, “4”, “5”, “6”~~, “3,” “4,” “5,” “6,” or
7 “7” pursuant to Section 18015. If the department determines that
8 insufficient funds will be available from these revenues, after
9 refund values are paid to processors and the reduction is made in
10 the processing fee pursuant to subdivision (f) of Section 14575 for
11 these containers, the department is not required to calculate a
12 commingled rate pursuant to this subdivision.

13 SEC. 6. Section 14549.6 of the Public Resources Code is
14 amended to read:

15 14549.6. (a) The department, consistent with Section 14581
16 and subject to the availability of funds, shall annually pay a total
17 of fifteen million dollars (\$15,000,000) per fiscal year to operators
18 of curbside programs and neighborhood dropoff programs that
19 accept all types of empty beverage containers for recycling. The
20 payments shall be for each container collected by the curbside or
21 neighborhood dropoff programs and properly reported to the
22 department by processors, based upon all of the following:

23 (1) The payment amount shall be calculated based upon the
24 volume of beverage containers collected by curbside and
25 neighborhood dropoff programs during the 12-month calendar
26 year ending on December 31 of the fiscal year for which payments
27 are to be made.

28 (2) The per-container rate shall be calculated by dividing the
29 total volume of beverage containers collected, as determined
30 pursuant to paragraph (1), into the sum of fifteen million dollars
31 (\$15,000,000).

32 (3) The amount to be paid to each operator of a curbside and
33 neighborhood dropoff program shall be based upon the
34 per-container rate, calculated pursuant to paragraph (2),
35 multiplied by the curbside program’s total reported beverage
36 container volume calculated pursuant to paragraph (1).

37 (b) The amounts paid pursuant to this section shall be expended
38 by operators of curbside and neighborhood dropoff programs only
39 for activities related to beverage container recycling.



1 (c) The department shall disburse payments pursuant to this
2 section not later than the end of the fiscal year following the
3 calendar year for which the payments are calculated pursuant to
4 paragraph (1) of subdivision (a), subject to the availability of
5 funds.

6 (d) The operator of a curbside program or neighborhood
7 dropoff program shall make available for inspection and review
8 any relevant record that the department determines is necessary to
9 verify compliance with this section.

10 SEC. 7. Section 14552.5 of the Public Resources Code is
11 amended to read:

12 14552.5. (a) The department shall supply all certified
13 processors with a standardized rejection form that shall include,
14 but not be limited to, the name of the parties rejecting the postfilled
15 beverage container material, the date of the rejections, the reasons
16 for the rejections, the amount of rejected material, and a detailed
17 accounting of the steps taken by the processor and container
18 manufacturer to avert landfilling or disposal of the material, as
19 required by subdivision (c) of Section 14552.51.

20 (b) Every container manufacturer shall fill out the standardized
21 rejection form specified in subdivision (a) whenever that container
22 manufacturer rejects a load of redeemed beverage container
23 materials physically delivered to the manufacturer's place of
24 business and offered for sale by a certified processor. The rejection
25 form shall be filled out by the container manufacturer at the time
26 of the rejection and immediately given to the certified processor
27 for submittal to the department. Any container manufacturer who
28 refuses to fill out the standardized rejection form required by this
29 subdivision is in violation of this division and is subject to the fines
30 and penalties in Sections 14591 and 14591.1.

31 (c) If a processor has made a good faith effort, as determined
32 by the department, to locate a willing purchaser and is
33 unsuccessful, the processor may fill out the standardized rejection
34 form specified in subdivision (a) and submit it to the department.
35 The processor rejection form shall include, but is not limited to, the
36 name of the processor, the container manufacturers and other
37 potential purchasers contacted, a detailed accounting of the
38 methods used to contact the potential buyers, the date of the
39 rejections, the reasons given for the rejections, the amount of

1 postfilled beverage container material rejected, and any other steps
2 taken to avert landfilling or disposal of the material.

3 (d) If a container manufacturer rejects a load of postfilled
4 containers by telephone, written correspondence of any kind, or
5 other similar method, the container manufacturer shall, in a
6 manner prescribed by the department, keep accurate logbooks of
7 the offer of loads by the certified processor, and make that logbook
8 available for inspection by the department upon demand. The
9 logbook shall contain, but is not limited to, the same information
10 required in the rejection form pursuant to subdivision (a).

11 (e) The standardized rejection form specified in subdivision (a)
12 shall be submitted to the department by the certified processor with
13 the written request to dispose of the redeemed material submitted
14 pursuant to Section 14552.51. This material shall not be disposed
15 of without a written authorization to do so by the department
16 pursuant to Section 14552.51.

17 (f) Nothing in this section shall be interpreted to lessen certified
18 processors' and container manufacturer's responsibilities relating
19 to beverage container recycling, or diminish in any way the
20 department's authority to carry out the intent and goals of this
21 division.

22 SEC. 8. Section 14552.51 of the Public Resources Code is
23 amended to read:

24 14552.51. (a) A certified processor seeking to dispose of
25 rejected postfilled containers may not dispose of rejected
26 postfilled containers unless the certified processor first submits to
27 the department, in writing, a request to dispose of the rejected
28 material. No certified processor shall dispose of the rejected
29 material prior to obtaining written permission from the
30 department. If the department fails to respond to a written request
31 to dispose of rejected postfilled beverage container materials
32 within 10 days of receipt of the request, the processor's request for
33 disposal is deemed approved by the department.

34 (b) All rejected loads of postfilled containers shall be available
35 and subject to inspection by the department.

36 (c) All possible steps to avert the disposal of the loads of
37 postfilled containers, as determined by the department, shall be
38 taken by all container manufacturers and processors. All
39 transactions or attempted transactions involving rejecting
40 postfilled containers shall be thoroughly documented on the



1 standardized rejection form pursuant to Section 14552.5. The
2 container manufacturer and the certified processor are jointly and
3 severally responsible for this effort.

4 SEC. 9. Section 14560 of the Public Resources Code is
5 amended to read:

6 14560. (a) (1) Every beverage distributor shall pay the
7 department, for deposit into the fund, a redemption payment of
8 five cents (\$0.05) for every beverage container sold or offered for
9 sale in this state by the distributor.

10 (2) A beverage container with a capacity of 24 fluid ounces or
11 more shall be considered as two beverage containers for purposes
12 of redemption payments and refund values.

13 (b) Except as provided in subdivision (c), every beverage
14 container sold or offered for sale in this state has a minimum refund
15 value of five cents (\$0.05) .

16 (c) Notwithstanding subdivision (b), a beverage container of
17 24 fluid ounces or larger shall have a minimum refund value of ten
18 cents (\$0.10).

19 (d) (1) The department shall periodically review the fund to
20 ensure that there are adequate funds in the fund to pay refund
21 values and other disbursements required by this division.

22 (2) If the department determines, pursuant to a review made
23 pursuant to paragraph (1), that there may be inadequate funds to
24 pay the refund values and necessary disbursements required by
25 this division, the department shall immediately notify the
26 Legislature of the need for urgent legislative action.

27 (3) On or before 180 days after the notice is sent pursuant to
28 paragraph (2), the department may reduce or eliminate
29 expenditures, or both, from the fund as necessary, according to the
30 procedure set forth in Section 14581, to ensure that there are
31 adequate funds in the fund to pay the refund values and other
32 disbursements required by this division.

33 (e) This section does not apply to any refillable beverage
34 container.

35 (f) The repeal and reenactment of this section by Chapter 815
36 of the Statutes of 1999 shall not affect any obligations or penalties
37 imposed by this section, as it read on January 1, 1999.

38 SEC. 10. Section 14561 of the Public Resources Code is
39 amended to read:

1 14561. (a) (1) A beverage manufacturer shall clearly
2 indicate on every beverage container sold or offered for sale by
3 that beverage manufacturer in this state the message “CA
4 Redemption ~~Value~~”, *Value*,” “California Redemption Value,”
5 “CA Cash Refund,” “California Cash Refund,”; “CA 5c,” or
6 “CA 10c” by either printing or embossing the beverage container
7 or by securely affixing a clear and prominent stamp, label, or other
8 device to the beverage container.

9 (2) A beverage manufacturer may affix the message or “CA
10 5c,” only if the container is less than 24 ounces, and may affix the
11 message “CA 10c,” only if the container is 24 ounces or more, on
12 a beverage container sold or offered for sale by the beverage
13 manufacturer.

14 (b) Any refillable beverage container sold or offered for sale is
15 exempt from this section. However, any beverage manufacturer or
16 container manufacturer may place upon, or affix to, a refillable
17 beverage container, any message that the manufacturer determines
18 to be appropriate relating to the refund value of the beverage
19 container.

20 (c) No person shall offer to sell, or sell to a consumer a beverage
21 container subject to subdivision (a) that has not been labeled
22 pursuant to this section, except for a refillable beverage container
23 that is exempt from labeling pursuant to subdivision (b).

24 (d) The department may require that any beverage container
25 intended for sale in this state be printed, embossed, stamped,
26 labeled, or otherwise marked with a universal product code or
27 similar machine-readable indicia.

28 (e) Any beverage container labeled with the message specified
29 in subdivision (a) shall have the minimum redemption payment
30 established pursuant to Section 14560, which shall be paid by the
31 distributor to the department pursuant to Section 14574.

32 SEC. 11. Section 14573.51 of the Public Resources Code is
33 amended to read:

34 14573.51. (a) Notwithstanding any other provision of this
35 division, recycling centers and processors shall not pay curbside
36 programs more than the applicable statewide average curbside
37 commingled rate unless the curbside program has received an
38 individual commingled rate from the department pursuant to
39 subdivision (b).

(b) The department shall establish a procedure whereby the operators of curbside programs may apply for an individual commingled rate for any material or types with or without a statewide commingled rate, including, but not limited to, glass, aluminum, bimetal, or any of the individual plastic resin types or combination of resin types identified by resin identification codes under Section 18015. These procedures shall require, at a minimum, all of the following:

(1) The individual rate shall be valid for no more than one year from the date the individual rate is authorized.

(2) The methodology used by the operator of the curbside program to determine the commingled rate shall be approved by the department, in advance.

(c) Curbside programs that have acquired an individual commingled rate, pursuant to this section, shall not be surveyed by the department to determine the statewide average curbside commingled rate during the period the individual commingled rate is effective.

(d) The department may enter into a contract for the services required to implement the amendments to this section made by the act of the first half of the 2003–04 Regular Session of the Legislature amending this section. The department may not expend more than two hundred fifty thousand dollars (\$250,000) for each year of the contract. The contract shall be paid only from revenues derived from redemption payments and processing fees paid on plastic beverage containers displaying the resin identification code ~~“3”, “4”, “5”, “6”,~~ “3,” “4,” “5,” “6,” or “7” pursuant to Section 18015. If the department determines that insufficient funds will be available from these revenues, after refund values are paid to processors and the reduction is made in the processing fee pursuant to subdivision (f) of Section 14575 for these containers, the department is not required to calculate a commingled rate pursuant to subdivision (b).

SEC. 12. Section 14575 of the Public Resources Code is amended to read:

14575. (a) If any type of empty beverage container with a refund value established pursuant to Section 14560 has a scrap value less than the cost of recycling, the department shall, on January 1, 2000, and on or before January 1 annually thereafter,

1 establish a processing fee and a processing payment for the
2 container by the type of the material of the container.

3 (b) The processing payment shall be at least equal to the
4 difference between the scrap value offered to a statistically
5 significant sample of recyclers by willing purchasers, and except
6 for the initial calculation made pursuant to subdivision (d), the sum
7 of both of the following:

8 (1) The actual cost for certified recycling centers, excluding
9 centers receiving a handling fee, of receiving, handling, storing,
10 transporting, and maintaining equipment for, each container sold
11 for recycling or, only if the container is not recyclable, the actual
12 cost of disposal, calculated pursuant to subdivision (c). The
13 department shall determine the statewide weighted average cost to
14 recycle each beverage container type, which shall serve as the
15 actual recycling costs for purposes of paragraphs (2) and (3) of
16 subdivision (c), by conducting a survey of the costs of a
17 statistically significant sample of certified recycling centers,
18 excluding those recycling centers receiving a handling fee, for
19 receiving, handling, storing, transporting, and maintaining
20 equipment.

21 (2) A reasonable financial return for recycling centers.

22 (c) The department shall base the processing payment pursuant
23 to this section upon all of the following:

24 (1) The department shall use the average scrap values paid to
25 recyclers between October 1, 2001, and September 30, 2002, for
26 the 2003 calculation and the same 12-month period directly
27 preceding the year in which the processing fee is calculated for any
28 subsequent calculation.

29 (2) To calculate the 2003 processing payments, the
30 department shall use the recycling costs for certified recycling
31 centers used to calculate the January 1, 2002, processing payments
32 .

33 (3) For calculating processing payments that will be in effect
34 on and after January 1, 2004, the department shall determine the
35 actual costs for certified recycling centers, every second year,
36 pursuant to paragraph (1) of subdivision (b). The department shall
37 adjust the recycling costs annually to reflect changes in the cost of
38 living, as measured by the Bureau of Labor Statistics of the United
39 States Department of Labor or a successor agency of the United
40 States government.

(d) Notwithstanding paragraph (1) of subdivision (b) and subdivision (c), for the purpose of setting the cost for recycling non-PET plastic containers by certified recycling centers, to determine the processing payment for those containers, the department shall use a recycling cost of six hundred forty-two dollars and sixty-nine cents (\$642.69) per ton for the January 1, 2002, calculation of the processing payment.

(e) Except as specified in subdivision (f), the actual processing fee paid by a beverage manufacturer shall equal 65 percent of the processing payment calculated pursuant to subdivision (b).

(f) The department, consistent with Section 14581 and subject to the availability of funds, shall reduce the processing fee paid by beverage manufacturers by expending funds in each material processing fee account, in the following manner:

(1) The processing fee in effect on and after the effective date of the act amending this section, and on January 1, 2004, shall equal the following amounts:

(A) For a container type that was subject to this division on January 1, 1999, 12 percent of the processing payment, if the recycling rate of that container type was equal to, or greater than, 60 percent for the 1999 calendar year.

(B) For a container type that was not subject to this division on January 1, 1999, 12 percent of the processing payment, if the recycling rate of that container type was equal to, or greater than, 60 percent for the 2001 calendar year.

(C) For a container type that was not subject to this division on January 1, 1999, 15 percent of the processing payment if the recycling rate for that container type was equal to, or greater than, 45 percent, but less than 60 percent for the 2001 calendar year.

(D) For a container type that was not subject to this division on January 1, 1999, 20 percent of the processing payment if the recycling rate for that container type was equal to, or greater than, 30 percent, but less than 45 percent, for the 2001 calendar year.

(2) On January 1, 2005, and annually thereafter, the processing fee shall equal the following amounts:

(A) Ten percent of the processing payment for a container type with a recycling rate equal to or greater than 75 percent.

(B) Eleven percent of the processing payment for a container type with a recycling rate equal to or greater than 65 percent, but less than 75 percent.

1 (C) Twelve percent of the processing payment for a container
2 type with a recycling rate equal to or greater than 60 percent, but
3 less than 65 percent.

4 (D) Thirteen percent of the processing payment for a container
5 type with a recycling rate equal to or greater than 55 percent, but
6 less than 60 percent.

7 (E) Fourteen percent of the processing payment for a container
8 type with a recycling rate equal to or greater than 50 percent, but
9 less than 55 percent.

10 (F) Fifteen percent of the processing payment for a container
11 type with a recycling rate equal to or greater than 45 percent, but
12 less than 50 percent.

13 (G) Eighteen percent of the processing payment for a container
14 type with a recycling rate equal to or greater than 40 percent, but
15 less than 45 percent.

16 (H) Twenty percent of the processing payment for a container
17 type with a recycling rate equal to or greater than 30 percent, but
18 less than 40 percent.

19 (I) Sixty-five percent of the processing payment for a container
20 type with a recycling rate less than 30 percent.

21 (3) The department shall calculate the recycling rate for
22 purposes of paragraph (2) based on the 12-month period ending on
23 June 30 that directly precedes the date of the January 1 processing
24 fee determination.

25 (g) Not more than once every three months, the department
26 may make an adjustment in the amount of the processing payment
27 established pursuant to this section, notwithstanding any change
28 in the amount of the processing fee established pursuant to this
29 section, for any beverage container, if the department makes all of
30 the following determinations:

31 (1) The statewide scrap value paid by processors for the
32 material type for the most recent available 12-month period
33 directly preceding the quarter in which the processing payment is
34 to be adjusted is 5 percent more or 5 percent less than the average
35 scrap value used as the basis for the processing payment currently
36 in effect.

37 (2) Funds are available in the processing fee account for the
38 material type.

39 (3) Adjusting the processing payment is necessary to further
40 the objectives of this division.



(h) (1) Except as provided in paragraphs (2) and (3), every beverage manufacturer shall pay to the department the applicable processing fee for each container sold or transferred to a distributor or dealer within 40 days of the sale in the form and in the manner which the department may prescribe.

(2) (A) Notwithstanding Section 14506, with respect to the payment of processing fees for beer and other malt beverages manufactured outside the state, the beverage manufacturer shall be deemed to be the person or entity named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code. If the department is unable to collect the processing fee from the person or entity named on the certificate of compliance, the department shall give written notice by certified mail to that person or entity. The notice shall state that the processing fee shall be remitted in full within 30 days of issuance of the notice or the person or entity shall not be permitted to offer that beverage brand for sale within the state. If the person or entity fails to remit the processing fee within 30 days of issuance of the notice, the department shall notify the Department of Alcoholic Beverage Control that the certificate holder has failed to comply, and the Department of Alcoholic Beverage Control shall prohibit the offering for sale of that beverage brand within the state.

(B) The department shall enter into a contract with the Department of Alcoholic Beverage Control, pursuant to Section 14536.5, concerning the implementation of this paragraph, which shall include a provision reimbursing the Department of Alcoholic Beverage Control for its costs incurred in implementing this paragraph.

(3) (A) Notwithstanding paragraph (1), a beverage manufacturer may, upon the approval of the department, elect to make a single annual payment of processing fees, if the beverage manufacturer's projected processing fees for a calendar year total less than one thousand dollars (\$1,000).

(B) An annual processing fee payment made pursuant to this paragraph is due and payable on or before February 1 for every beverage container sold or transferred by the beverage manufacturer to a distributor or dealer in the previous calendar year.

(C) A beverage manufacturer shall notify the department of its intent to make an annual processing fee payment pursuant to this

1 paragraph on or before January 31 of the calendar year preceding
2 the year in which the payment will be due.

3 (4) The department shall pay the processing payments on
4 redeemed containers to processors, in the same manner as it pays
5 refund values pursuant to Sections 14573 and 14573.5. The
6 processor shall pay the recycling center the entire processing
7 payment representing the actual cost and financial return incurred
8 by the recycling center, as specified in subdivision (b).

9 (i) When assessing processing fees pursuant to subdivision (a),
10 the department shall assess the processing fee on each container
11 sold, as provided in subdivisions (e) and (f), by the type of material
12 of the container, assuming that every container sold will be
13 redeemed for recycling, whether or not the container is actually
14 recycled.

15 (j) The container manufacturer, or a designated agent, shall pay
16 to, or credit, the account of the beverage manufacturer in an
17 amount equal to the processing fee.

18 (k) If, at the end of any calendar year for which glass recycling
19 rates equal or exceed 45 percent and surplus funds remain in the
20 glass processing fee account or if, at the end of any calendar year
21 for which PET recycling rates equal or exceed 45 percent and
22 surplus funds remain in the PET processing fee account, the
23 department may use these surplus funds in the respective
24 processing fee accounts in the following calendar year to reduce
25 the amount of the processing fee that would otherwise be due from
26 glass or PET beverage manufacturers pursuant to this subdivision.

27 (1) The department shall reduce the glass or PET processing
28 fee amount pursuant to this subdivision in addition to any
29 reduction for which the glass or PET beverage container qualifies
30 under subdivision (g).

31 (2) The department shall determine the processing fee
32 reduction by dividing two million dollars (\$2,000,000) from each
33 processing fee account by an estimate of the number of containers
34 sold or transferred to a distributor during the previous calendar
35 year, based upon the latest available data.

36 SEC. 13. Section 14575.1 of the Public Resources Code is
37 amended to read:

38 14575.1. (a) Notwithstanding subdivision (b) of Section
39 14575, if a willing purchaser offers to purchase empty PET or
40 HDPE containers at a voluntary artificial scrap value that is equal

1 to the processing fee reduced pursuant to subdivision (f) of Section
2 14575 when applied to all containers sold, no processing fee shall
3 be imposed on PET or HDPE containers pursuant to Section
4 14575.

5 (b) If a willing purchaser offers to pay a voluntary artificial
6 scrap value, the department shall, on a monthly basis, determine
7 whether the sum of the voluntary artificial scrap value and
8 payments made from the PET or HDPE Processing Fee Account
9 pursuant to subdivision (f) of Section 14575, are equal to, or more
10 than, the recycling cost for empty PET or HDPE containers
11 determined pursuant to subdivision (d) of Section 14575.

12 (c) If the department determines that, for any monthly period,
13 the sum of the voluntary artificial scrap value and payments made
14 from the PET or HDPE Processing Fee Account pursuant to
15 subdivision (f) of Section 14575, is less than the recycling cost for
16 empty PET or HDPE containers, determined pursuant to Section
17 14575, the following requirements shall apply:

18 (1) The department shall immediately provide written
19 notification of the deficiency for that monthly period and the
20 amount of that deficiency to any willing purchaser.

21 (2) A willing purchaser shall correct the deficiency in the next
22 monthly period by adjusting the voluntary artificial scrap value by
23 an amount sufficient to equal the recycling cost for empty PET or
24 HDPE containers plus the previous monthly period's deficiency.

25 (3) If the deficiency and amount in arrears is not corrected
26 within 30 days of providing written notice to willing purchasers of
27 empty PET or HDPE containers, the department shall impose a
28 processing fee pursuant to Section 14575 which includes any
29 amount necessary, including any amount in arrears, to cover the
30 cost of recycling empty PET or HDPE containers.

31 (d) If the department determines that, for any monthly period,
32 the sum of the voluntary artificial scrap value and payments made
33 from the PET or HDPE Processing Fee Account pursuant to
34 subdivision (f) of Section 14575, is greater than the recycling cost
35 for empty PET or HDPE containers, the department shall do both
36 of the following:

37 (1) Immediately provide written notification of the deviation
38 for that monthly period and the amount of that deviation to any
39 willing purchaser.

(2) Provide a credit equal to the amount of the deviation for any future monthly period wherein the voluntary artificial scrap value, and payments made from the PET or HDPE Processing Fee Account, are less than the recycling cost of empty PET or HDPE containers determined pursuant to subdivision (d) of Section 14575.

(e) Nothing in this section is intended to affect any litigation that was pending on January 1, 1996, in which the department is a party of record.

SEC. 14. Section 14575.5 is added to the Public Resources Code, to read:

14575.5. (a) The department shall establish a supplemental processing payment to be paid to a processor. The processor shall pay the entire supplemental processing payment to a recycling center that receives processing payments pursuant to Section 14575. The department shall determine the supplemental processing payment based on the volume of redeemed containers that the recycling center reports for each whole month pursuant to subdivision (b), commencing on or before 20 days after the effective date of the act adding this section and continuing for a period of 12 consecutive months.

(1) Consistent with Section 14581 and subject to the availability of funds, the department shall establish a supplemental processing payment for glass, PET plastic containers, and HDPE plastic containers as follows:

(A) Forty dollars and eighty-six cents (\$40.86) for each ton of glass beverage containers.

(B) One hundred eighty-two dollars and fifty-four cents (\$182.54) ~~or~~ for each ton of PET plastic beverage containers.

(C) Two hundred twenty-eight dollars and seventy-five cents (\$228.75) for each ton of HDPE plastic beverage containers.

(2) The department may not make a supplemental processing payment to a recycling center for any volume reported for a whole month that is not within the 12-month consecutive time period established in subdivision (a).

(b) A recycling center shall report to a processor the volume of redeemed containers subject to the supplemental processing payments established pursuant to paragraph (1) of subdivision (a) no later than the 10th day following the end of the 12-month period established in subdivision (a).

(c) The department shall pay the supplemental processing payments on eligible redeemed containers to processors, in the same manner as it pays refund values pursuant to Sections 14573 and 14573.5, except that paragraph (2) of subdivision (a) of Section 14573.5 is not applicable. The processor shall pay a recycling center the entire supplemental processing payment as specified in subdivision (a).

SEC. 15. Section 14581 of the Public Resources Code is amended to read:

14581. (a) Subject to the availability of funds, and pursuant to subdivision (c), the department shall expend the money set aside in the fund, pursuant to subdivision (c) of Section 14580 for the purposes of this section:

(1) (A) On and after July 1, 2002, until June 30, 2003, twenty-six million five hundred thousand dollars (\$26,500,000) shall be expended for the payment of handling fees required pursuant to Section 14585.

(B) On and after July 1, 2003, twenty-three million five hundred thousand dollars (\$23,500,000) shall be expended annually for the payment of handling fees required pursuant to Section 14585.

(2) Fifteen million dollars (\$15,000,000) shall be expended annually for payments for curbside programs and neighborhood dropoff programs pursuant to Section 14549.6.

(3) (A) Fifteen million dollars (\$15,000,000), plus the proportional share of the cost-of-living adjustment, as provided in subdivision (b), shall be expended annually in the form of grants for beverage container litter reduction programs and recycling programs issued to either of the following:

(i) Certified community conservation corps that were in existence on September 30, 1999, or that are formed subsequent to that date, that are designated by a city or a city and county to perform litter abatement, recycling, and related activities, if the city or the city and county has a population, as determined by the most recent census, of more than 250,000 persons.

(ii) Community conservation corps that are designated by a county to perform litter abatement, recycling, and related activities, and are certified by the California Conservation Corps as having operated for a minimum of two years and as meeting all other criteria of Section 14507.5.

1 (B) Any grants provided pursuant to this paragraph shall not
2 comprise more than 75 percent of the annual budget of a
3 community conservation corps.

4 (4) (A) Ten million five hundred thousand dollars
5 (\$10,500,000) may be expended annually for payments of five
6 thousand dollars (\$5,000) to cities and ten thousand dollars
7 (\$10,000) for payments to counties for beverage container
8 recycling and litter cleanup activities, or the department may
9 calculate the payments to counties and cities on a per capita basis,
10 and may pay whichever amount is greater, for those activities.

11 (B) Eligible activities for the use of these funds may include,
12 but are not necessarily limited to, support for new or existing
13 curbside recycling programs, neighborhood dropoff recycling
14 programs, public education promoting beverage container
15 recycling, litter prevention, and cleanup, cooperative regional
16 efforts among two or more cities or counties, or both, or other
17 beverage container recycling programs.

18 (C) These funds may not be used for activities unrelated to
19 beverage container recycling or litter reduction.

20 (D) To receive these funds, a city, county, or city and county
21 shall fill out and return a funding request form to the Department
22 of Conservation. The form shall specify the beverage container
23 recycling or litter reduction activities for which the funds will be
24 used.

25 (E) The Department of Conservation shall annually prepare
26 and distribute a funding request form to each city, county, or city
27 and county. The form shall specify the amount of beverage
28 container recycling and litter cleanup funds for which the
29 jurisdiction is eligible. The form shall not exceed one double-sided
30 page in length, and may be submitted electronically. If a city,
31 county, or city and county does not return the funding request form
32 within 90 days of receipt of the form from the department, the city,
33 county, or city and county is not eligible to receive the funds for
34 that funding cycle.

35 (F) For the purposes of this paragraph, per capita population
36 shall be based on the population of the incorporated area of a city
37 or city and county and the unincorporated area of a county. The
38 department may withhold payment to any city, county, or city and
39 county that has prohibited the siting of a supermarket site, caused
40 a supermarket site to close its business, or adopted a land use policy

1 that restricts or prohibits the siting of a supermarket site within its
2 jurisdiction.

3 (5) (A) One million five hundred thousand dollars
4 (\$1,500,000) may be expended annually in the form of grants for
5 beverage container recycling and litter reduction programs.

6 (B) Up to a total of six million eight hundred forty thousand
7 dollars (\$6,840,000) shall be paid to the City of San Diego,
8 between January 1, 2000, and January 1, 2004, for a curbside
9 recycling program conducted pursuant to Section 14549.7.

10 (6) (A) The department shall expend the amount necessary to
11 pay the processing payment and supplemental processing payment
12 established pursuant to Sections 14575 and 14575.5. The
13 department shall establish separate processing fee accounts in the
14 fund for each beverage container material type for which a
15 processing payment and processing fee is calculated pursuant to
16 Section 14575, or for which a processing payment is calculated
17 pursuant to Section 14575 and a voluntary artificial scrap value is
18 calculated pursuant to Section 14575.1, into which account shall
19 be deposited both of the following:

20 (i) All amounts paid as processing fees for each beverage
21 container material type pursuant to Section 14575.

22 (ii) Funds to ensure an adequate balance in each processing fee
23 account to pay the processing payments established in subdivision
24 (b) of Section 14575 and adjusted pursuant to paragraphs (2) and
25 (3) of subdivision (c) of, and subdivision (f) of, Section 14575, to
26 reduce the processing fee to the level provided in subdivision (f)
27 of Section 14575 or to reflect the agreement by a willing purchaser
28 to pay a voluntary artificial scrap value pursuant to Section
29 14575.1, and to pay the supplemental processing payments
30 established in Section 14575.5.

31 (B) Notwithstanding Section 13340 of the Government Code,
32 the money in each processing fee account is hereby continuously
33 appropriated to the department for expenditure without regard to
34 fiscal years, for purposes of making processing payments and
35 supplemental processing payments, and reducing processing fees,
36 pursuant to Sections 14575 and 14575.1.

37 (7) Up to ten million dollars (\$10,000,000) shall be expended
38 by the department between January 1, 2000, and January 1, 2002,
39 for the purposes of undertaking a statewide public education and

1 information campaign aimed at promoting increased recycling of
2 beverage containers.

3 (8) Up to three million dollars (\$3,000,000) shall be expended
4 annually for the payment of quality glass incentive payments
5 pursuant to Section 14549.1.

6 (9) (A) Three hundred thousand dollars (\$300,000) shall be
7 expended annually by the department, until January 1, 2004,
8 pursuant to a cooperative agreement entered into between the
9 department and Keep California Beautiful, a nonprofit 501(c)(3)
10 organization chartered by the State of California in 1990, for the
11 purpose of conducting statewide public education campaigns
12 aimed at preventing and cleaning up beverage containers and
13 related litter. The campaigns shall include, but not be limited to,
14 coordination of Keep California Beautiful month.

15 (B) Prior to making an expenditure pursuant to this paragraph,
16 the department shall enter into a cooperative agreement with Keep
17 California Beautiful.

18 (C) As part of the cooperative agreement, Keep California
19 Beautiful shall provide the department with an annual campaign
20 plan and budget, and a report of previous year campaign activities.

21 (10) Up to ten million dollars (\$10,000,000) may be expended
22 annually by the department, until January 1, 2007, to issue grants
23 for recycling market development and expansion-related activities
24 aimed at increasing the recycling of beverage containers,
25 including, but not limited to, the following:

26 (A) Research and development of collecting, sorting,
27 processing, cleaning, or otherwise upgrading the market value of
28 recycled beverage containers.

29 (B) Identification, development, and expansion of markets for
30 recycled beverage containers.

31 (C) Research and development for products manufactured
32 using recycled beverage containers.

33 (D) Payments to California manufacturers who recycle
34 beverage containers that are marked by resin type identification
35 codes “3,” “4,” “5,” “6,” or “7,” pursuant to Section 18015.

36 (b) The fifteen million dollars (\$15,000,000) that is set aside
37 pursuant to paragraph (3) of subdivision (a) is a base amount that
38 the department shall adjust annually to reflect any increases or
39 decreases in the cost of living, as measured by the Department of
40 Labor, or a successor agency, of the federal government.

(c) (1) The department shall review all funds on a quarterly basis to ensure that there are adequate funds to make the payments specified in this section and the processing fee reductions required pursuant to Section 14575.

(2) If the department determines, pursuant to a review made pursuant to paragraph (1), that there may be inadequate funds to pay the payments required by this section and the processing fee reductions required pursuant to Section 14575, the department shall immediately notify the appropriate policy and fiscal committees of the Legislature regarding the inadequacy.

(3) On or before 180 days after the notice is sent pursuant to paragraph (2), the department may reduce or eliminate expenditures, or both, from the funds as necessary, according to the procedure set forth in subdivision (d).

(d) If the department determines that there are insufficient funds to make the payments specified pursuant to this section and Section 14575, the department shall reduce all payments proportionally.

(e) Prior to making an expenditure pursuant to paragraph (7) of subdivision (a), the department shall convene an advisory committee consisting of representatives of the beverage industry, beverage container manufacturers, environmental organizations, the recycling industry, nonprofit organizations, and retailers, to advise the department on the most cost-effective and efficient method of the expenditure of the funds for that education and information campaign.

SEC. 16. Section 14585 of the Public Resources Code is amended to read:

14585. (a) The department shall adopt guidelines and methods for paying handling fees to supermarket sites, nonprofit convenience zone recyclers, or rural region recyclers to provide an incentive for the redemption of empty beverage containers in convenience zones. The guidelines shall include, but not be limited to, all of the following:

(1) Handling fees shall be paid on a monthly basis, in the form and manner adopted by the department. The department shall require that claims for the handling fee be filed with the department not later than the first day of the second month following the month for which the handling fee is claimed as a condition of receiving any handling fee.

(2) To be eligible for any handling fee, a supermarket site recycling center, nonprofit convenience zone recycler, or rural region recycler shall redeem not less than 60,000 beverage containers, during the calendar month in which the handling fee is claimed, or have redeemed not less than an average of 60,000 beverage containers per month during the previous 12 months, and, except for operators of certified recycling centers that are nonprofit organizations, not more than 500,000 beverage containers, during the calendar month in which the handling fee is claimed.

(3) A beverage container with a capacity of 24 fluid ounces or more shall be considered as two beverage containers for purposes of determining the eligibility percentage, any handling fee calculations, and payments.

(4) The department shall determine the number of eligible containers per site for which a handling fee will be paid in the following manner:

(A) Each eligible site's combined monthly volume of glass and plastic beverage containers shall be divided by the site's total monthly volume of all empty beverage container types.

(B) If the quotient determined pursuant to subparagraph (A) is equal to, or more than, 10 percent, the total monthly volume of the site shall be the maximum volume which is eligible for a handling fee for that month.

(C) If the quotient determined pursuant to subparagraph (A) is less than 10 percent, the department shall divide the volume of glass and plastic beverage containers by 10 percent. That quotient shall be the maximum volume that is eligible for a handling fee for that month.

(5) The department shall pay a handling fee of 1.8 cents (\$0.018) per eligible beverage container, as determined pursuant to paragraph (4).

(6) Notwithstanding paragraph (5), the total handling fee payment to a supermarket site, nonprofit convenience zone recycler, or rural region recycler shall not exceed two thousand three hundred dollars (\$2,300) per month.

(7) If the eligible volume in any given month would result in handling fee payments which exceed the allocation of funds for that month, as provided in subdivision (b), sites with higher eligible monthly volumes shall receive handling fees for their

1 entire eligible monthly volume before sites with lower eligible
2 monthly volumes receive any handling fees.

3 (8) (A) If a dealer where a supermarket site, nonprofit
4 convenience zone recycler, or rural region recycler is located
5 ceases operation for remodeling or for a change of ownership, the
6 operator of that supermarket site nonprofit convenience zone
7 recycler, or rural region recycler shall be eligible to apply for
8 handling fees for that site for a period of three months following
9 the date of the closure of the dealer.

10 (B) Every supermarket site operator, nonprofit convenience
11 zone recycler, or rural region recycler shall promptly notify the
12 department of the closure of the dealer where the supermarket site,
13 nonprofit convenience zone recycler, or rural region recycler is
14 located.

15 (C) Notwithstanding subparagraph (A), any operator who fails
16 to provide notification to the department pursuant to subparagraph
17 (B) shall not be eligible to apply for handling fees.

18 (b) The department may allocate the amount authorized for
19 expenditure for the payment of handling fees pursuant to
20 paragraph (1) of subdivision (a) of Section 14581 on a monthly
21 basis and may carry over any unexpended monthly allocation to a
22 subsequent month or months. However, unexpended monthly
23 allocations shall not be carried over to a subsequent fiscal year for
24 the purpose of paying handling fees but may be carried over for
25 any other purpose pursuant to Section 14581.

26 (c) (1) The department shall not make handling fee payments
27 to more than one certified recycling center in a convenience zone.
28 If a dealer is located in more than one convenience zone, the
29 department shall offer a single handling fee payment to a
30 supermarket site located at that dealer. This handling fee payment
31 shall not be split between the affected zones. The department shall
32 stop making handling fee payments if another recycling center
33 certifies to operate within the convenience zone without receiving
34 payments pursuant to this section, if the department monitors the
35 performance of the other recycling center for 60 days and
36 determines that the recycling center is in compliance with this
37 division. Any recycling center that locates in a convenience zone,
38 thereby causing a preexisting recycling center to become
39 ineligible to receive handling fee payments, is ineligible to receive
40 any handling fee payments in that convenience zone.

(2) The department shall offer a single handling fee payment to a rural region recycler that is located anywhere inside a convenience zone that is not served by another certified recycling center and does either of the following:

(A) Operates a minimum of 30 hours per week in one convenience zone.

(B) Serves two or more convenience zones, and meets all of the following criteria:

(i) Is the only certified recycler within each convenience zone.

(ii) Is open and operating at least eight hours per week in each convenience zone and is certified at each location.

(iii) Operates at least 30 hours per week in total for all convenience zones served.

(d) The department may require the operator of a supermarket site or rural region recycler receiving handling fees to maintain records for each location where beverage containers are redeemed, and may require the supermarket site or rural region recycler to take any other action necessary for the department to determine that the supermarket site or rural region recycler does not receive an excessive handling fee.

(e) The department may determine and utilize a standard container per pound rate, for each material type, for the purpose of calculating volumes and making handling fee payments.

~~SEC. 17. (a) Upon written approval of the Director of Finance, an amount not to exceed eighty million dollars (\$80,000,000) may be transferred for fiscal year 2003-04 from the California Beverage Container Recycling Fund established pursuant to Section 14580 of the Public Resources Code to the General Fund. The transfer made by this subdivision is a loan to the General Fund and shall be fully repaid by June 30, 2010. This loan shall be repaid with interest at the rate earned by the Pooled Money Investment Account at the time of the transfer. The Controller shall, within 15 working days of receipt of a written notification from the Director of Finance, transfer from the General Fund to the Beverage Container Recycling Fund the full amount of the loan or increments thereof as requested by the Director of Finance. It is the intent of the Legislature that the repayment is made so as to ensure that the programs supported by this fund are not adversely affected by the loan.~~

~~(b) (1) Upon written approval of the Director of Finance, an amount not to exceed one hundred million dollars (\$100,000,000) annually may be transferred for fiscal year 2004-05 and fiscal year 2005-06 from the California Beverage Container Recycling Fund established pursuant to Section 14580 of the Public Resources Code to the General Fund. The Director of Finance may not transfer funds pursuant to this subdivision unless the Director of Conservation determines that the amount of the transfer will not affect the ability of the Department of Conservation to make the expenditures specified in Sections 14580 and 14581 of the Public Resources Code in the full amounts specified in those sections; notwithstanding subdivision (d) of Section 14581.~~

~~(2) A transfer made by paragraph (1) is a loan to the General Fund and the amount transferred for fiscal year 2004-05 shall be fully repaid by June 30, 2011, and the amount transferred for fiscal year 2005-06 shall be fully repaid by June 30, 2012. This loan shall be repaid with interest at the rate earned by the Pooled Money Investment Account at the time of the transfer. The Controller shall, within 15 working days of receipt of a written notification from the Director of Finance, transfer from the General Fund to the Beverage Container Recycling Fund the full amount of the loan or increments thereof as requested by the Director of Finance. It is the intent of the Legislature that the repayment is made so as to ensure that the programs supported by this fund are not adversely affected by the loan.~~

~~(c) Upon the written approval of the Director of Finance, a loan made pursuant to this section shall be transferred back to the California Beverage Container Recycling Fund in an amount necessary to provide operating funds for support of the Beverage Container Recycling and Litter Recycling Act (Division 12.4 (commencing with Section 14500) of the Public Resources Code. Once the monthly cashflow needs of the California Beverage Container Recycling and Litter Reduction Act are met, any excess General Fund moneys transferred to the California Beverage Container Recycling Fund during the fiscal year shall revert to the General Fund on the June 30 of that fiscal year.~~

~~SEC. 18.~~

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or

1 school district will be incurred because this act creates a new crime
2 or infraction, eliminates a crime or infraction, or changes the
3 penalty for a crime or infraction, within the meaning of Section
4 17556 of the Government Code, or changes the definition of a
5 crime within the meaning of Section 6 of Article XIII B of the
6 California Constitution.

7 ~~SEC. 19.~~

8 *SEC. 18.* This act is an urgency statute necessary for the
9 immediate preservation of the public peace, health, or safety
10 within the meaning of Article IV of the Constitution and shall go
11 into immediate effect. The facts constituting the necessity are:

12 In order to encourage the recycling of beverage containers,
13 thereby better protecting public and health and safety and the
14 environment, it is necessary that this act take effect immediately.

